

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BERKLEY ASSURANCE COMPANY,

Plaintiff,

v.

**ASSOCIATED INDUSTRIES INSURANCE
COMPANY, INC.,**

Defendant.

Case No.: 21-cv-5303

PLAINTIFF’S OPPOSED MOTION FOR JUDGMENT ON THE PLEADINGS

COMES NOW Plaintiff Berkley Assurance Company (“Berkley”), pursuant to Fed. R. Civ. P. 12(c), and hereby moves the Court for entry of judgment on the pleadings in this matter. Berkley is entitled to judgment on the pleadings against Defendant Associated Industries Insurance Company, Inc. (“Associated”) because Associated denied coverage to Berkley’s and Associated’s mutual insured despite (a) Berkley’s other insurance clause making its policy excess to Associated’s and (b) Associated having an obligation to pay indemnity for covered claims for “property damage” caused by an “occurrence” asserted against the insured to which no exclusion applied.

Berkley’s Memorandum in Support of its Motion is filed contemporaneously herewith.

WHEREFORE, Plaintiff Berkley Assurance Company prays that this Court enter judgment on the pleadings for Berkley and provide such other and further relief as this Court deems just and equitable.

Dated: October 6, 2022.

Respectfully submitted,

/s/ Meredith A. Webster

Meredith A. Webster IL #6305145
Kutak Rock LLP
2300 Main Street, Suite 800
Kansas City, MO 64108
Phone: (816) 960-0090
Fax: (816) 960-0041
meredith.webster@kutakrock.com

and

Michael T. McDonnell, III
Kutak Rock LLP
Two Logan Square
100 N. 18th Street, Suite 1920
Philadelphia, PA 19103-2707
Phone: (215) 299-4384
Fax: (215) 981-0719
michael.mcdonnell@kutakrock.com
**ATTORNEYS FOR BERKLEY
ASSURANCE COMPANY**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 6, 2022, a true and correct copy of the above and foregoing was filed using the Court's CM/ECF e-filing system, which will send notification of such filing to the following counsel of record:

James J. Hickey
Kennedys CMK LLP
30 South Wacker Drive, Suite 3650
Chicago, IL 60606
james.hickey@kennedyslaw.com
ATTORNEYS FOR DEFENDANT

/s/ Meredith A. Webster

Attorney for Plaintiff